



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner
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Date: January 13, 2022
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-865-6714 / Andrew.Gulizia@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 21-057463 AD

GENERAL INFORMATION

Applicant: Sean Barnett
Polymath Studio Architecture
2505 SE 11th Ave., Ste. 342
Portland, OR 97202
(503) 593-0954
sean@polymathstudio.com

Property Owner: Nathan Ramsey
3727 NE 10th Ave.
Portland, OR 97212

Site Address: 3727 NE 10th Ave.

Legal Description: BLOCK 6 N 1/2 OF LOT 10 EXC N 7' OF W 44', LINCOLN PK
Tax Account No.: R497100930
State ID No.: 1N1E23CD 10600
Quarter Section: 2631

Neighborhood: King, contact Libby deal at libby.kingnapdx@gmail.com
Business District: Soul District Business Association, contact at Info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact at info@necoalition.org
Zoning: R2.5a – Single-Dwelling Residential 2,500 base zone with Alternative Design Density (“a”) overlay zone

Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to expand the existing single-story house on this site with a second-story addition. In the R2.5 zone, new building area must be set back at least 5 feet from side lot lines, and new eaves must be set back at least 4 feet from side lot lines (Zoning Code

Section 33.110.220.B, 33.110.220.C.1.a). The applicant requests approval of the following Adjustments to minimum setback requirements for the proposed addition:

- To reduce the minimum setback from the north side lot line from 5 feet to 3.5 feet for the wall and from 4 feet to 1.75 feet for the eave; and
- To reduce the minimum setback from the south side lot line from 5 feet to 3.25 feet for the wall and from 4 feet to 1.75 feet for the eave.

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The subject site is 2,192 square feet in area and located on the west side of NE 10th Avenue, between NE Beech Street and NE Failing Street. The site is developed with a single-story, approximately 640-square-foot house which the applicant proposes to expand. Surrounding properties are developed with a mix of single-story and two-story houses. Mixed-use development along NE Grand Avenue is five blocks west of the site.

Zoning: The R2.5 single-dwelling residential zone is intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is within the Alternative Design Density (“a”) overlay zone. The purpose of the “a” overlay zone is to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The “a” overlay zone regulations are not applicable to this proposal.

Land Use Review History: There are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal” was sent December 15, 2021. The following Bureaus responded with no concerns about the proposed Adjustments:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4); and
- Site Development Section of the Bureau of Development Services (BDS) (Exhibit E-5).

The Life Safety Review Section of BDS responded with no objections to the Adjustments and noted that fire protection is required for parts of eaves less than 2 feet from lot lines (Exhibit E-6). The applicant obtained approval of a building code appeal for fire-protected eaves to address Life Safety requirements (file # 21-097428 BD).

Neighborhood Review: No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors. The applicant submitted letters in support of the proposal from the owners of the properties to the north and south of the subject site (Exhibit A-2).

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The Adjustment request is to the minimum building setback requirements. The purposes of the setback requirements in the R2.5 zone are stated in Zoning Code Section 33.110.220.A:

The setback regulations for buildings and garage entrances serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Staff finds the proposal equally meets the intent of the setback requirements to be modified for the following reasons:

- The Adjustments to the north side setback requirement will allow the second-story addition to be closer than 5 feet to the abutting property at 3733 NE 10th Avenue. The two-story house at 3733 NE 10th Avenue is set back approximately 15 feet from the shared lot line, so the proposal will not significantly affect light, air, or privacy for this home or create an unreasonable physical relationship between the two houses. The owner of 3733 NE 10th Avenue expressed support for the Adjustment proposal (Exhibit A-2).
- The Adjustment to the south side setback requirement will allow the second-story addition to be closer than 5 feet to the abutting property at 3723 NE 10th Avenue. The house at 3723 NE 10th Avenue is only one story and is set back only about 3 feet from the shared lot line. The owner of 3723 NE 10th Avenue expressed support for the proposal (Exhibit A-2), and the second-story addition will be set back further from the south lot line than the existing ground floor. However, staff found that revisions were necessary to minimize impacts to light, air, and privacy for this home and to maintain a more reasonable physical relationship between the two homes. Compared with the original proposal (Exhibit A-3), the revised plans have a lower roof height (18 inches lower) and privacy windows on the south-facing upper story. All upper-story, south-facing windows will be clerestory windows, except for a window over a stairwell at the back of the house. Each of these windows will be too high above the floor below to allow views of the adjacent lot, preserving privacy for the neighbor to the south. A condition of approval will require these privacy windows to be maintained on the upper-story, south-facing wall.
- The expanded home will be only about 1,400 square feet in floor area and 23.5 feet in building height, which is only about two-thirds the maximum building height allowance for the R2.5 zone. Several homes in the surrounding area are of a similar or larger size, so the proposal will not cause the home on the subject site to be out of scale or incompatible with the neighborhood.

- The Fire Bureau and BDS' Life Safety Review Section both reviewed the Adjustment proposal and responded with no concerns about fire safety requirements (Exhibits E-4 and E-6, respectively). To address Life Safety requirements, the applicant obtained approval of a building code appeal for fire-protected eaves (file # 21-097428 BD).
- The proposal maintains the required 10-foot setback from the front lot line, and the front yard will not be affected by the reduced side setbacks.
- The open area in the back yard will remain in compliance with the minimum outdoor area requirement in Zoning Code Section 33.110.235.B-C.
- No driveway or off-street parking is required or proposed for this site, so the Adjustment request will not affect parking or driver visibility.

For these reasons, and with the condition of approval mentioned above, staff finds approval criterion A is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Since the site is in the R2.5 residential zone, the Adjustment proposal must not significantly detract from the livability or appearance of the residential area. As discussed above, the proposed addition will not cause the home to be unusually large or tall for the neighborhood. The building setback requirements from the abutting properties will be reduced, but the existing ground floor of the house is already closer to the adjacent lots than the second-story addition will be. A condition of approval will require second-story windows overlooking the closest neighboring home (to the south) to be high above the adjacent floors to preserve privacy. For these reasons, and with the condition of approval for privacy windows, staff finds the proposal will not significantly detract from the livability or appearance of the residential area. With the condition of approval, criterion B is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The purpose of single-dwelling residential zones such as R2.5 is described in Zoning Code Section 33.110.010:

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

- A. Use regulations. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood.*
- B. Development standards. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on*

flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.

The site will continue to be used as a residence for a household, as intended for the R2.5 zone. The Adjustments will allow flexibility to expand a small house on a small lot, but the expanded home will not be unusually large or tall for the neighborhood. Fire safety requirements can still be met, and the privacy of the closest neighboring home will be protected by a condition of approval requiring privacy windows on the upper-story, south wall. The Adjustments will have no effect on opportunities for energy conservation or recreation. For these reasons, and with the condition of approval for privacy windows, staff finds the proposal is consistent with the purpose of the R2.5 zone. With the condition of approval, criterion C is met.

D. City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic resources or historic resources mapped on the subject site, this criterion is not applicable.

E. Any impacts resulting from the Adjustment are mitigated to the extent practical; and

Findings: Staff finds the greatest potential for impacts is the difference in building height between the proposed addition and the existing, single-story house to the south. As mentioned above, the applicant lowered the proposed building height to minimize the scale difference. Also, windows on the upper-story, south-facing wall will be too high above the adjacent floors to allow views of the adjacent lot. For these reasons, and with a condition of approval for the privacy windows on the upper-story south wall, staff finds potential impacts are adequately mitigated. With the condition of approval, criterion E is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: Environmental overlay zones are designated on the official zoning maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on the site, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

Staff finds the proposed Adjustments to be consistent with the purpose of the setback requirements to be modified and with the overall purpose of the R2.5 zone. The proposal will not significantly detract from the appearance or livability of the surrounding residential area. With a condition of approval for privacy windows on the upper-story, south-facing wall, staff finds the applicable approval criteria for the Adjustment Review are met.

ADMINISTRATIVE DECISION

Approval of the following Adjustments to the minimum setback requirements in Zoning Code Sections 33.110.220.B and 33.110.220.C.1.a for a second-story addition:

- To reduce the minimum setback from the north side lot line from 5 feet to 3.5 feet for the wall and from 4 feet to 1.75 feet for the eave; and
- To reduce the minimum setback from the south side lot line from 5 feet to 3.25 feet for the wall and from 4 feet to 1.75 feet for the eave

per the approved plans, Exhibits C-1 and C-2, signed and dated January 6, 2022, subject to the following conditions:

- A. As part of the building permit application submittal, each of the required site plans and additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-057463 AD."
- B. Upper story windows on the south elevation must be as shown in Exhibit C-2. Except for the window over the stairwell at the back of the house, only clerestory windows are allowed on the upper-story, south-facing wall.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on January 6, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 13, 2022

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on June 15, 2021 and was determined to be complete on December 10, 2021.

Zoning Code Section 33.700.080 states that land use review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on June 15, 2021.

ORS 227.178 states the City must issue a final decision on land use review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on April 9, 2022.**

Some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be

documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at https://www.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on January 27, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to email, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision. If this land use review is approved the final decision will be recorded with the Multnomah County Recorder. *Unless appealed*, the final decision will be recorded after **January 27, 2022** by the Bureau of Development Services. The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Narrative
 - 2. Neighbor letters submitted by applicant
 - 3. Original plans
 - 4. Building code appeal decision
 - 5. Revised plans, submitted October 13, 2021
 - 6. Final revised plans, submitted December 10, 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Building elevations (attached)
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Land use application form
 - 2. Incompleteness determination letter, dated June 29, 2021

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

For Zoning Code in effect
August 1, 2020 - July 31, 2021



Site



Historic Landmark

File No.	LU 21 - 057463 AD
1/4 Section	2631
Scale	1 inch = 200 feet
State ID	1N1E23CD 10600
Exhibit	B Jun 15, 2021

Approved
 City of Portland
 Bureau of Development Services

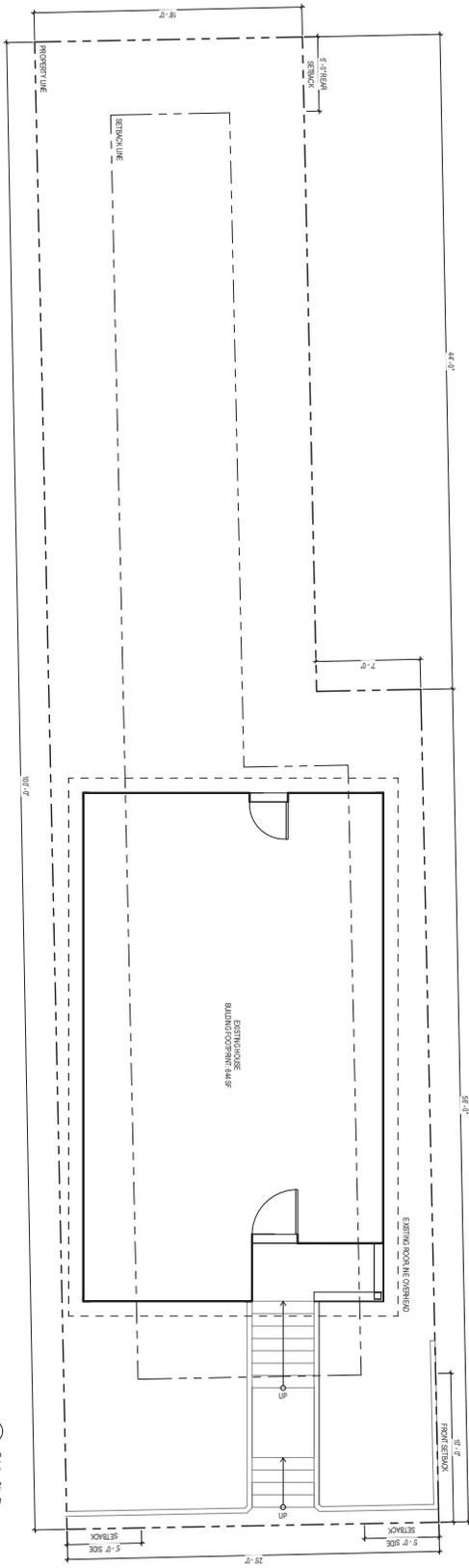
Planner A. Guizilia

Date 1/6/2022

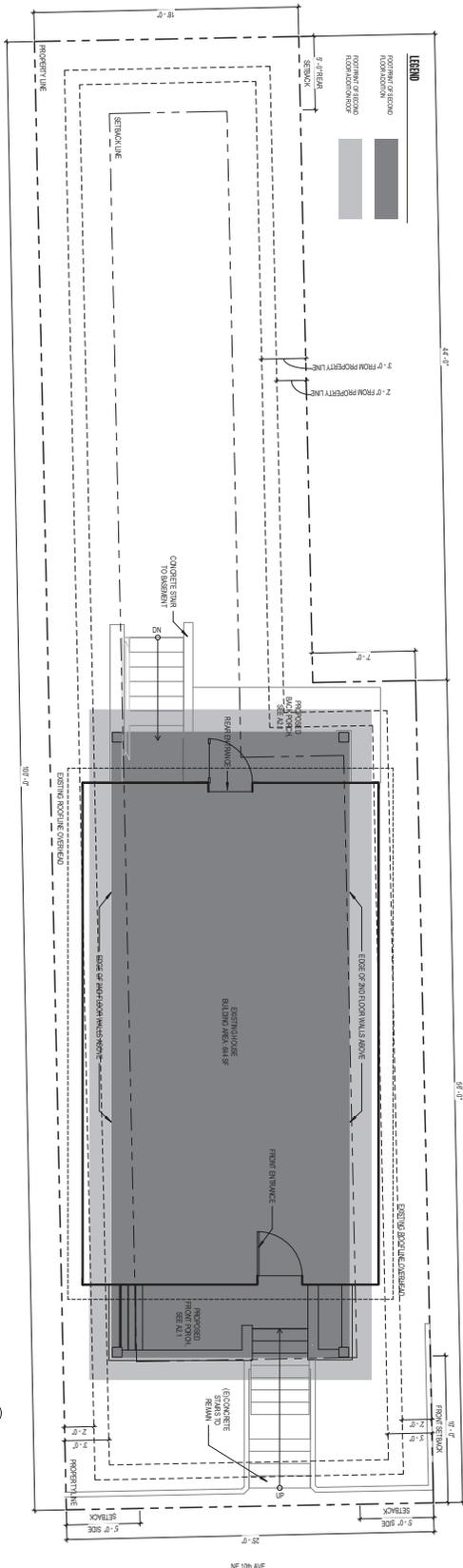
This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ZONING ANALYSIS: R-5

USE	REGULATORY CODE	PROPOSED
RESIDENCE	20' min	
FRONT SETBACK	5'	
REAR SETBACK	5'	
CONCRETE REMAIN	5'	
CONCRETE AREA	2015 sq ft	
DIMENSIONS	27' x 72' min	



1 Existing Site Plan
 1/4" = 1'-0"



2 Main Site Plan
 1/4" = 1'-0"



ADJUSTMENT SET

Site Plan

AS INDICATED

A1.0

9 DECEMBER 2021

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REVISIONS	REVISION #	REVISION DATE

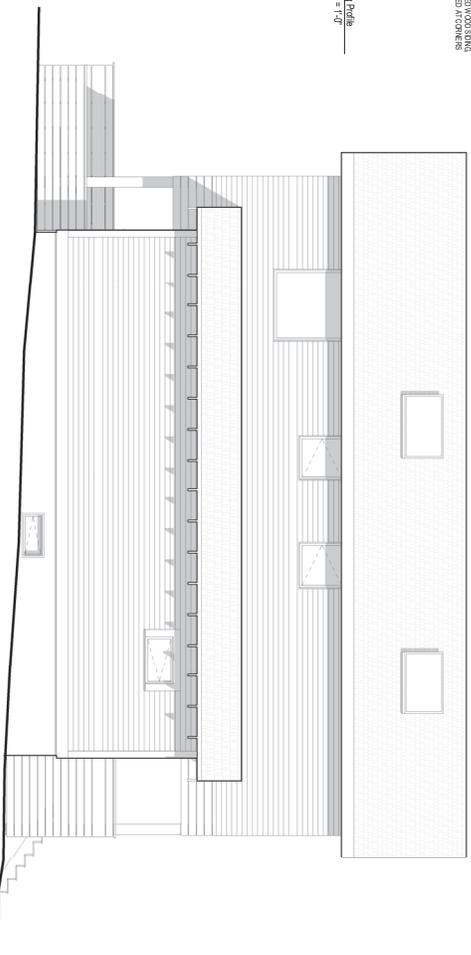
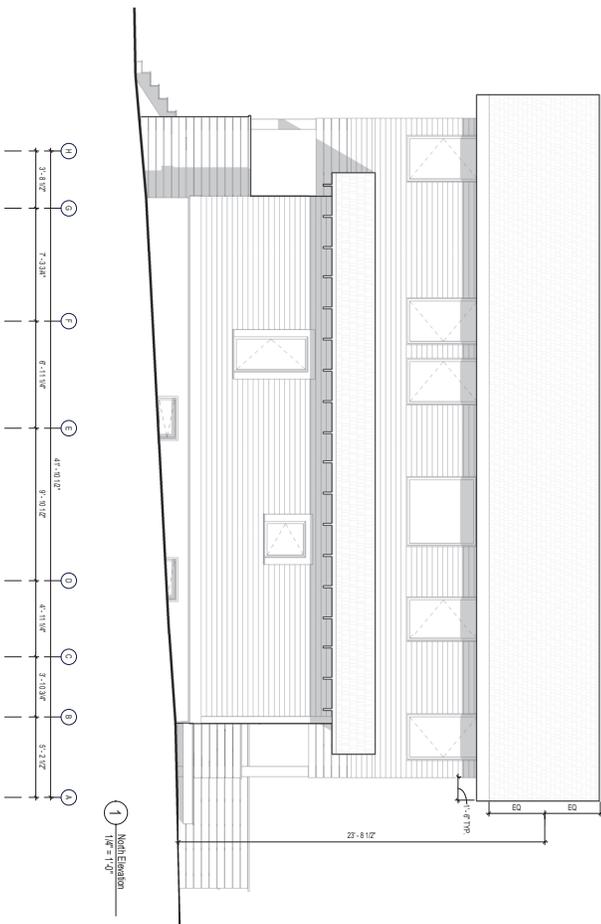
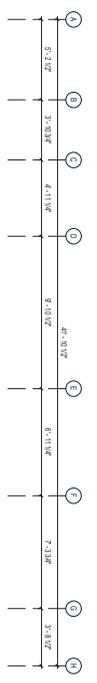
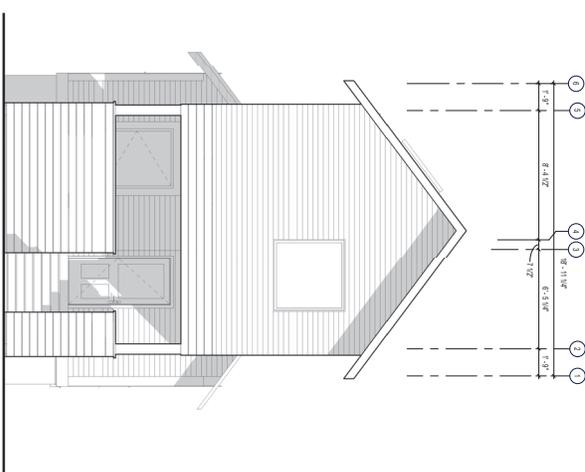
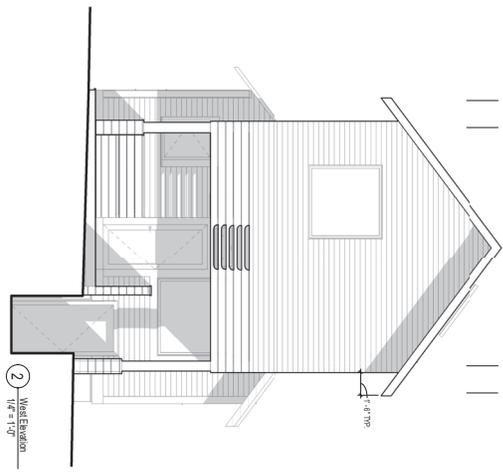
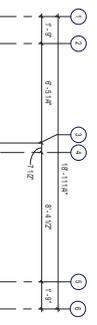
RAMSEY-FISHER ADDITION

3727 NE 10th Ave
 Portland, Oregon 97212

Client: *Marta Fisher & Nathan Ramsey*

REGISTERED ARCHITECT
 SEAN W. BOKETT
 2015 NE 11th Ave #112
 Portland, Oregon 97232
 503.393.0934 ©2020

POLYMAATH



PAINTED WOODSING
HORIZONTAL SIDING

3 Siding Profile
1 1/2\"/>

Approved
City of Portland
Bureau of Development Services
Planner: A. Gilizia

Date: 1/6/2022
*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

3 East Elevation
1/4\"/>

2 West Elevation
1/4\"/>

4 South Elevation
1/4\"/>

1 North Elevation
1/4\"/>

ADJUSTMENT SET

A3.0

AS INDICATED

Exterior Elevations

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REVISIONS	REVISION DATE
9 DECEMBER 2021	

RAMSEY-FISHER ADDITION

3727 NE 10th Ave
Portland, Oregon 97212
Client: Marta Fisher & Nathan Ramsey

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